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Case Summary Civil Docket

NOCV2004-01337 Mandros y Barletta Engineering Corn et al.

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File Date	08/17/2004	Status	Disposed: transfered to other court (dtrans)
Status Date	09/17/2004	Session	A - Civil A
Origin	1	Case Type	E99 - Miscellaneous
Lead Case		Track	X
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Service	11/15/2004	<b>Answer</b> 01/14/2005	Rule12/19/20
Rule 15		Discovery	Rule 56
Final PTC	02/13/2005	Disposition 03/15/2005	Jury Trial Unknown

Plaintiff Arthur Mandros Active 08/17/2004

Private Counsel 544044 Brian T Hatch 8 North Main Street suite 403 Attleboro, MA 02703 Active 08/17/2004 Notify

Defendant

Barletta Engineering Corp Service pending 08/17/2004

Defendant

International Union of Operating Engineers local 4 Service pending 08/17/2004

Private Counsel 487130

Mary T Sullivan Segal Roitman & Coleman 11 Beacon Street Boston, MA 02108 Phone: 617-742-0208 Active 09/17/2004 Notify

Private Counsel 645577

Indira Talwani Segal Roitman & Coleman 11 Beacon Street Boston, MA 02108 Phone: 617-742-0208 Fax: 617-742-2187 Active 09/17/2004 Notify

Date	Paper	Text
08/17/2004	1.0	Complaint entry fee \$275
08/17/2004		Origin 1, Type E99, Track X.

MAS-20030912 terickipa

Case 1:04-cv-11999-REKmmDowenth of Massign 1:04-cv-1199-REKmmDowenth of Massign 1:04-cv-11

Page 2 of 20

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NORFOLK SUPERIOR COURT Case Summary Civil Docket

NOCV2004-01337 Mandros v Barletta Engineering Corp et al

Date	Paper	Text
08/17/2004	2.0	Civil action cover sheet filed
08/17/2004		accelerated track notice sent to plff attorney
08/19/2004		ONE TRIAL review by Clerk, Case is to remain in the Superior Court
09/17/2004	3.0	Notice of REMOVAL this date to US District Court of
		Massachusetts(rec'd9/16/04)

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COMMONWEALTH OF MAS	SACHUSETTS
BRASTOL, ss	SUPERIOR COURT
MONEOTK	<u> </u>
ARTHUR MANDROS,	)
Plaintiff,	) COMPLAINT
V.	)
BARLETTA ENGINEERING CORP.  and INTERNATIONAL UNION OF OPERATING ENGINEERS, Local 4, Defendants	RECEIVED TO THE COUNTY
	)

### **COMPLAINT**

# **Parties**

- 1. Plaintiff Arthur A. Mandros is a natural person residing at 81 Hilltop Drive, Portsmouth, Rhode Island 02871.
- 2. Defendant Barletta Engineering Corp. has a usual place of business at 40 Shawmut Road, Suite 200, Canton, Massachusetts 02131
- 3. Defendant International Union of Operating Engineers, Local 4 is a union with a local office at 177 Bedford Street, Lexington, MA 02420

#### Facts

- Plaintiff began work as a Rod Person at Defendant Barletta Engineering
   Corporation's Walnut Hill Water Treatment Plant Project.in Marlborough,
   Massachusetts on June 21, 1999.
- 5. The initial rate of pay for Plaintiff at that facility was \$11.00 per hour.
- 6. The rate of pay for a Rod Person under the contract between the Defendant Union and Defendant Barletta as of 11/1/1999 was \$17.74 an hour, as of 5/1/2000 was \$17.73 an hour, as of 11/1/2000 was \$18.24 an hour, as of 5/1/2001 was 18.66 as of 11/1/2001 was 19.24 an hour, as of 5/1/2002 was \$19.81 an hour, as of 11/1/2002 was \$20.46 an hour, and as of 5/1/2003 was \$21.10 an hour. See Exhibit #1
- 7. The rate of pay for Plaintiff as of the payroll ending date of 3/17/01 was \$16.00 an hour. See Exhibit #2
- 8. The rate of pay for Plaintiff as of payroll ending date of 4/14/01 was \$16.80 an hour. See Exhibit #3
- 9. The rate of pay for Plaintiff as of payroll ending date of 2/2/02 was \$18.75 an hour. See Exhibit #4.
- 10. The rate of pay for Plaintiff as of payroll ending date of 3/2/02 was \$18.75 an hour. See Exhibit #5
- 11. The Minimum Wage Rate for the position Plaintiff was working at set by the Attorney General's Office as of 5/1/2000 was \$28.55 an hour. See Exhibit #6
- 12. The Minimum Wage Rate for the position Plaintiff was working at set by Attorney General's Office as of 11/1/2000 was \$29.06 an hour. See Exhibit #6

- 13. The Minimum Wage Rate for the position Plaintiff was working at set by the Attorney General's Office as of 5/1/2001 was \$29.48 an hour. See Exhibit #6
- 14. The Minimum Wage Rate for the position Plaintiff was working at set by the Attorney General's Office as of 11/1/2001 was \$30.06 an hour. See Exhibit #6
- 15. The Minimum Wage Rate for the position Plaintiff was working at set by the Attorney General's Office as of 5/1/2002 was \$30.63. See Exhibit #6
- 16. The Minimum Wage Rate for the position Plaintiff was working at set by the Attorney General's Office as of 11/1/02 was \$31.28 an hour. See Exhibit #6
- 17. The Minimum Wage Rate for the position Plaintiff was working at set by the Attorney General's Office as of 5/1/2003 was \$31.92 an hour. See Exhibit #6

## COUNT 1-VIOLATION OF WAGE LAWS C. 149 §150

- 18. Plaintiff restates Paragraphs 1-17 as if fully set forth herein
- 19. Defendant Barletta Engineering Corporation has committed a violation Wage Laws of the Commonwealth of Massachusetts c. 149 §150 by not paying plaintiff wages meeting the Minimum Wage Rates determined by the Deputy Director of the Division of Occupational Safety of the Department of Labor and Workforce Development according to Massachusetts General Laws c. 149 §§ 26 to 27H for the Massachusetts Water Resources Authority Contract #6489 for the construction of a water treatment facility project CP3 called the Walnut Hill Water Treatment Plant.
- 20. Defendant International Union of Operating Engineers, Local #4 has failed comply with its duty of fair representation of plaintiff by not proceeding with representing plaintiff in his attempt to be paid minimum wage rates.

- 21. Defendant International Union of Operating Engineers, Local #4 has failed to comply with Massachusetts General Laws c. 149 §150 by assisting plaintiff Barletta Engineering Corporation in paying plaintiff less than Minimum Wage Rates required by the Commonwealth of Massachusetts at the Walnut Hill Water Treatment Plant, Project CP3 by referring to a schedule of wage rates for this particular project lower than the minimum wage rates.
- 22. Defendant International Union of Operating Engineers, Local #4 breached the agreement covering plaintiff as a member of that union by assisting defendant Barletta Engineering Corporation in paying plaintiff less than the schedule of wage rates for the position he was employed in during the time of his employment.

Wherefore, Plaintiff hereby requests the following relief:

- a. Payment by defendant Barletta Corporation of back wages in the amount of \$105,516 to plaintiff.
- b. Appropriate interest on this amount to be paid by defendant Barletta Corporation.
- c. Punitive damages to be paid by defendant Barletta Corporation in the amount of \$100,000 for blatant disregard of minimum wage rates set by the Commonwealth for the Walnut Hill Water Treatment Plant project.
- d. Damages against the defendant the International Union of Operating Engineers, Local #4 for its violation of its fair duty of representation to

Filed 09/22/2004

its member Arthur Mandros in the amount of \$100,000.

- e. Punitive damages to be paid by defendant the International Union of Operating Engineers, Local #4 for its blatant disregard of minimum wage rates set by the Commonwealth of Massachusetts for the Walnut Hill Water Treatment Plant for its member Arthur Mandros in the amount of \$100,000.
- f. Court costs and attorney's fees to be paid by defendants in accordance with its share of damages awarded.

g. Such other relief as the Court deems just.

By plaintiff's attorney,

Brian T. Hatch, Esq.

Board of Bar Overseers #544044 8 North Main Street Suite 403

Attleboro, MA 02703

Dated:

# INTERNATIONAL UNION of OPERATING ENGINEERS - LOCAL 4

November 1, 1999 - October 31, 2003

# SCHEDULE OF WAGES

# FIELD ENGINEERS/TECHNICAL ENGINEERS

### **MASSACHUSETTS**



	<u>11/1/1999</u> *	5/1/2000*	11/1/2000	5/1/2001*	11/1/2001*	5/1/2002	11/1/2002*	<u>5/1/2003*</u>
Party Chief	26.67	26.91	27.69	28.38	29.26	30.14	31.12	32.10
	1066.80	1076.40	1107.60	1135.20	1170.40	1205.60	1244.80	1284.00
Instrument Person	25.77	25.98	26.73	27.39	28.23	29.08	30.02	30.96
	1030.80	1039.20	1069.20	1095.60	1129.20	1163.20	1200.80	1238.40
Rod Person	17.74	17.73	18.24	18.66	19.24	19.81	20.46	21.10
	709.60	709.20	729.60	746.40	769.60	792.40	818.40	844.00

Chief of Survey

**OTHER** 

The Chief of Survey shall be paid one dollar (\$1.00) per hour above the Party Chief rate.

#### NEW HAMPSHIRE/MAINE

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Social and Political Action Committee, 5¢ per hour.

Dues Assessment

The Local may, at its option, utilize part of these increments for increases to Health & Welfare, Pension, Annuity, Social and Political Action Committees, Dues Deduction and Foundation for Fair Contracting.

11/4% deducted from total Wage and Benefit Package;

REQROOR FT 905 + U.S. PATENT NO. 5538290;5575508,5441183;8785361

265 ARTHUR MANDROS 81 HILLTOP DRIVE PORTSMOUTH RI 02871

SS # 035-54-6590 Filing Status S- BARLETTA ENGINEERING CORP Check Date 03/21/01 Payroll Ending Date 03/17/01

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Page 10 of 20 Case 1:04-cv-11999-REK Document 2 Filed 09/22/2004

265 ARTHUR MANDROS **91 HILLTOP DRIVE** 

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265 ARTHUR MANDROS 81 HILLTOP DRIVE PORTSMOUTH RI 02871

SS # 035-54-6590 Filing Status S- 1

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265 ARTHUR MANDROS 81 HILLTOP DRIVE PORTSMOUTH RI 02871 SS # 035-54-6590 Filing Status S- 1 Salary Amount

BARLETTA ENGINEERING CORP Check Date 06/13/01

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265 ARTHUR MANDROS 81 HILLTOP DRIVE PORTSMOUTH RI 02871 SS # 035-54-6590 Filing Status S- 1 Salary Amount

Check Date 06/28/01 0.00 Payroll Ending Date 06/23/01

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ARTHUR MANDROS

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CALL DESCRIPT	ION (STATE )	AMOUNT ***	
FWT	3	74.00	25/25/25/
33 <b>21</b> 06	ì !	40.10	3 6 7 1 7 2 7 5 7 6
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	ARMAN ARMAN ARMAN ARMAN ARMAN DEDUCATIONS ARMAN	
-	18,904.0	14,236,4

BARLETTA ENGINEERING CORP SS # 035-54-6590 265 ARTHUR MANDROS Check Date 07/12/01 Filing Status S- 1 81 HILLTOP DRIVE Payroll Ending Date 07/07/01 0.00 Salary Amount PORTSMOUTH RI 02871 YEAR-TO-DATE THIS PAY PERIOD YEAR-TO-DATE THIS PAY PERIOD DESCRIPTION AMOUNT AMOUNT AMOUNT AMOUNT HOURSAUNITE DESCRIPTION RATE 18,368.00 FWT 157.00 2,107.00 1,344.00 80.00 SALARY 83.33 1,138.83 -1,453.76 SS FICA - 103.84 401K AMT 19.49 266.35 MED FICA 754.18 55.66 MA ST WH LAST JOB: 09956-THIS PAY PERIOD DEDUCTIONS NET PAY DEDUCTIONS NET PAY EARNINGS PERIOD ENDING **FARNINGS** 16,914.24 4,266.36 12,647.88 924.68 315.48 07/07/01 1,240.16 ARLEITA ENGINEERING CORPO (ATON EMPLOYER 第四日 SOC SEC HA SHOO DALBERDADED AT LEEDING ARTHUR MANDAQS EARNINGS DEDUCTIONS THIS PAY P AMOUNT DESCRIPTION ' 74.00 5 (d ) VACAT I @ 140...10 151 - 4 11 7A 53.16 UNI ENI 9.38 OCD FICE 840,00 वर्क्ष्म)ए SALARY ្តក្នុង 💲 🕻 🥨 28.07 £51.37 125-IND ASI. 22 401K AM AST JOB: 09956 YEAR TO DATE

NET PAY

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EARNINGS.

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THIS PAY PERIOD

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09/09/00

265 ARTHUR MANDROS 81 HILLTOP DRIVE SS # 035-54-6590 Filing Status S- 1 BARLETTA ENGINEERING CORP Check Date 07/26/01

Salary Amount PORTSMOUTH RI 02871

Payroll Ending Date 07/21/01 0.00

DODTEMOI	JTH RI 0	2871	Salar	y Amount	0.00 Payrol	DEDUCTIONS!	07/21/01
FOR I SHOW		EARMING		YEAR-TO-DATE	THIS PAY PER	100	YEAR-TO-DATE
	THIS PAY P	ERIOD	AMOUNT	AMOUNT	DESCRIPTION	AMOUNT	AMOUNT
DESCRIPTION	RATE	HOURSAUNITS		19,712.00	FWT	157.00	2,264.00
SALARY		80.00		-1,557.60	SS FICA	83.33	1,222.16
401K AMT		İ	- 103.84	-1,557.60	MED FICA	19.49	285.84
ì						55.66	809.84
					MA ST WH	33.00	
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LAST JOB:	p9956-					YEAR TO DATE	
		THIS PAY	PERIOD	NET PAY	EARNINGS	DEDUCTIONS	NET PAY
07/21/0:		,240.16	315.48	924.68		-1	13,572.56

ARLETTA ENGINEERING CORPORATION SOC, BEC. NO. 035-54-6590 26\$ ARTHUR MANDROS

EMPLOYER BARLETTA ENGINEERING CORP

	EARN	INGS	YEAR-TO-DATE
THE PARK THE P	Y PERIOD TO SE		AMOUNT
AST JOB: 09956	40.00	58.16 640.00 -51.37 -51.92	640-00 2,210.08 20,392.40 -1,850.70 -1,298.00

THIS PAY P	DEDUCTIONS	YEAR-YO-DATE
DESCRIPTION	AMOUNT	THUOMA PERSON
FWT SS FICA MED FICA MA ST WH	74.00 40.10 9.38 28.07	2,415.00 1,326.24 310.18 919.07

_NOT 000: (	THIS PA	Y PERIOD	HETPAY
09/16/00	594.87	151.55	443.32

YEAR TO DATE				
L: EARNINGS	DEDUCTIONS	NEI PAT		
20,093.78	A,970.49	15,123.2		

265 ARTHUR MANDROS SS # 035-54-6590 BARLETTA ENGINEERING CORP Check Date 08/09/01 81 HILLTOP DRIVE Filing Status S- 1 Payroll Ending Date 08/04/01 Salary Amount 0.00 PORTSMOUTH RI 02871

THIS PAY PERIOD		YEAR-TO-DATE	YEAR-TO-DATE THIS PAY PERIO		YEAR-TO-DATE	
DESCRIPTION	RATE HOU	URSAUNITS AMOUNT	AMOUNT	DESCRIPTION	AMOUNT	AMOUNT
SALARY		80.00 1,344.0	0 21,056.00	FWT	157.00	2,421.00
401K AMT	1	- 103.8	4 -1,661.44	SS FICA	83.33	1,305.49
			1	MED FICA	19.49	305.33
i				MA ST WH	55.66	865.50
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LAST JOB:						
		IS PAY PERIOD			YEAR TO DATE	
PRICHE COMPANY	EARNINGS	DEDUCTIONS	NET PAY	EARNINGS	DEDUCTIONS	NET PAY
00/04/0	1 1 240	10 215 40 l	024 60	10 204 56	4 002 22	34 407 04

08/04/01 1,240.16 315.48 924.68 19,394.56 4,897.32 14,497.24

ARLETTA ENGINEERING CORPORATION EMPLOTES AND SOC SEC. NO. J\$5~54~659O 265 ARTHUR MANDROS

Market A. The	CEMBROLES SELVE	Charlet in a se	
MARILE LIA LE	ING INEER ING	CORP	022259

DEDUCTIONS

		EARN	INGS	
	THE RESERVE THE PERSON NAMED IN	AY PERIOD CAN YOU	AMOUNT	STAG-OT-RABY AMOUNT
G HRS	16.0000	8.00	128.00	256,00
ACATIO		}		640.00
4S IND			58.16	2,268.24
<b>ILARY</b>		40.00	640.00	21,032,40
25-IND			~51.37_	₹~1,902,07
DIK AM			~51.92	1,349,92
ST JOE	8: 09956-	<u> </u>		

DESCRIPTION "	ERIOD	ENGREE AMOUNT AS ENERGY
I W I	110.00	\$\$12°528°00°
SS FICA	48.04	14382022
MED FICA	11.23	323,27
MA ST WH	35.69	954.76
		STATE OF THE STATE OF
	<u> </u>	and the feet market of the state of the stat

THIS PAY PERIOD							
Company of the property	Committee 1/11.11/1 Expenses	STEEL DEDUCTIONS	NET PAY				
)9/23/00	722.87	204.96	517.91				

	YEAR TO DATE	
EARNINGS	DEDUCTIONS	NET PAY
20,944.65	5,188.25	15,756.40

ss # 035-54-6590 BARLETTA ENGINEERING CORP 265 ARTHUR MANDROS Check Date 08/24/01 Filing Status S- 1 81 HILLTOP DRIVE 0.00 Payroll Ending Date 08/18/01 Salary Amount PORTSMOUTH RI 02871 EAR-TO-DATE YEAR-TO-DATE THIS PAY PERIOD AMOUNT DESCRIPTION AMOUNT THUOMA HOURSAUNITE AMOUNT DESCRIPTION 672.00 FWT 157.00 2,578.0d 672.00 16.800d 40.00 REG HRS 83.33 1,388.82 672.00 SS FICA 40.00 672.00 16.8000 VACATION MED FICA 19.49 324.82 21,056.00 SALARY MA ST WH 55.66 -1,765.28 921.16- 103 84 401K AMT LAST JOB: 09956-EAR TO DATE NET PAY DEDUCTIONS NET PAY DEDUCTIONS PENIOD ENDING EARNINGS 5.212.80 15,421.92 20,634.72 315.48 924.68 1,240.16 08/18/01 TA ENGINEERING CORPORATION 1 SOC RING CORP 035-54 ARTHUR MANDROS 74.00 FWT EG HRS 40.10 SS FICA ACATIO 9.38 MED FICA 58.16 NS IND 28.07 MA ST WH ONUS 640.00 40.00 **ALARY** ~51.37 25-IND -51.92O1K AM APPY HDLIDAYS!!!!!! <u> 708 - 09956</u> YEAR TO DATE THIS PAY PERIOD THE REPORT OF THE PROPERTY OF THE PARTY OF T 12/16/00 151.55

265 ARTHUR MANDROS 81 HILLTOP DRIVE SS # 035-54-6590

BARLETTA ENGINEERING CORP Filing Status S- 1 Check Date 09/07/01

Salary Amount 0.00 Payroll Ending Date 09/01/01

-	' PORTSM	OUTH RI 02	871	Sala	ry Amount	0.00 Payro	ll Ending Date	09/01/01
			EARNINGS		NEAD TO DATE	THIS PAY P	DEDUCTIONS	YEAR-TO-DATE
-	DESCRIPTION	THIS PAY PE	HOURS/UNITS	AMOUNT	YEAR-TO-DATE AMOUNT	DESCRIPTION	AMOUNT	AMOUNT
┢	REG HRS	. , , , , , , , , , , , , , , , , , , ,			672.00	FWT	157.00	2,735.00
	VACATION				672.00	SS FICA	83.33	1,472.15
	SALARY		80.00	1,344.00	22,400.00	MED FICA	19.49	344.31
	401K AMT	j	[ 00.00	- 103.84	-1,869.12	MA ST WH	55.66	976.82
- [	AUTK MIT		<u> </u>	103.01	1,003.12	12. 02		3.0.02
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	LAST JOB:	þ9956-				<u> </u>		
			THIS PAY PERIO				YEAR TO DATE	
-	PERIOD ENDING		02	DEDUCTIONS	NET PAY	EARNINGS	DEDUCTIONS	NET PAY
	09/01/01	.   1,24	40.16	315.48	924.68	21,874.88	5,528.28	16,346.60

BARLETTA ENGINEE	RING CORPORATION	100 march 3 15 mg/2 co	arc Bo	Charles to the contract of the	
BARLETTA	A TOWN OF WAR	100	***	EMPLO	YER AREA TO THE REST OF THE RE
ARTH	UR MANDROS	035~	542090	BARLETTA ENGINE	ERING COPP CO 1 = 5
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THE PROPERTY OF THE PARTY OF TH	20 CO CO	CALL COMPANY AND MARKET STATE OF THE STATE O	WOUNT TO	DESCRIPTION DESCRIPTION	
LDERGRETTON N CALEBRA	IE WATER AND AND AND AND AND AND AND AND AND AND		5.00	rwr -	THUOMAN THU
REG HRS			6 10	SS FICA	74.00 37.562.00
VACATIO		58.16 <b>(1)</b>	3 . 8 . 12	MED FICA	40-10 321 381 40
INS IND			7 7 6 6	- MA ST WH	9.38 28.07
BONUS SALARY	40.00	640-00	沙岛第二		
125-IND	1	-51.37 -51.92	2 0 0	,	
401K AM		TOX - 74 (SOL)	<b>*********</b>		
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and a most of the state of the	THIS PAY	151.55	ויינייי	20 077 0	(A) (A) (A) (A) (A) (A) (A) (A) (A) (A)
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